

Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

AGENDA

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

Supreme Court's Advisory Committee on the Rules of Appellate Procedure

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah

April 13, 2006 - 12:00 p.m.

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| 1. | WELCOME AND APPROVAL OF MINUTES | Joan Watt |
| 2. | RULE 4(f) | Joan Watt Fred Voros |
| 3. | RULE 12 | Kate Toomey |
| 4. | CHILD WELFARE RULES | Margaret Lindsay |
| 5. | OTHER BUSINESS | |
| 6. | ADJOURN | |

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

MINUTES

**Supreme Court's Advisory Committee
on the Rules of Appellate Procedure**

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

April 13, 2006 - 12:00 p.m.

ATTENDEES

Matty Branch
Paul Burke
Marian Decker
Margaret Lindsay
Judge Gregory Orme
Karra Porter
Clark Sabey
Kate Toomey
Fred Voros
Joan Watt

EXCUSED

Larry Jenkins
David Lewis
Bryan Pattison

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Joan Watt welcomed the Committee members to the meeting. Fred Voros moved to approve the minutes from the last meeting. Kate Toomey seconded the motion. The motion carried unanimously.

II. RULE 4(f)

Fred Voros discussed the proposed changes to Rule 4(f), to incorporate the Supreme Court's direction from State v. Manning. Mr. Voros proposed taking out the fault language and explaining the case in the advisory committee note. Joan Watt expressed opposition to the lengthy commentary, suggesting that the Committee note should just refer to Manning and State v. Johnson. After some discussion, the Committee members generally agreed with Ms. Watt's suggestion. The Committee members suggested that only Manning be referenced. Kate Toomey then moved to approve Rule 4(f) as proposed by Joan Watt and Fred Voros, keeping only the first sentence of the proposed Committee note. The motion was seconded. The motion carried unanimously.

III. RULE 12

Kate Toomey distributed a proposal on how counsel may check out a record at the trial court. Matty Branch expressed a concern with allowing pro se parties to check out the record. Judge Orme suggested including language that the record may be checked out by members of the bar, as officers of the court. Kate Toomey asked whether disbarred members should be able to check out a record on the types of cases that she deals with. Judge Orme also suggested changing the language about mailing, allowing mailing through a common carrier or reputable courier.

Joan Watt suggested that the language needs to be clarified as to when the file must be sent back to the trial court. The Committee members discussed whether it should be returned when the brief is filed or promptly after. The Committee also discussed whether there should be a limit on the number of volumes that can be mailed. After this discussion, Kate Toomey stated that she would make additional changes and present them to the Committee at the next meeting.

IV. CHILD WELFARE RULES

Margaret Lindsay noted that there is a problem with the current Child Welfare Rules. Ms. Lindsay noted that Rule 55 references Rule 27, but all of Rule 27's provisions do not apply to the child welfare process, such as the brief color. Ms. Lindsay suggested making Rule 55 self-contained, to include all of the provisions that should apply to the child welfare process. The Committee members agreed with the suggestion and Ms. Lindsay will present the proposal at the next meeting.

V. OTHER BUSINESS

Marian Decker suggested that Rule 5(c)(2) should be changed to refer to Rule 9(c)(9), and not Rule 9(c)(7). Judge Orme moved to make the change. Paul Burke seconded the motion. The motion carried unanimously.

Judge Orme stated that there is a need to change the Appellate Mediation Rule to clarify that the appellate court will not enforce a mediated agreement unless the agreement has been reduced to writing. Judge Orme questioned whether the Committee members would agree to this concept. The Committee members agreed to this concept. Language will be proposed at the next meeting.

The next meeting was scheduled for May 24, 2006. The meeting adjourned at 1:05 p.m.

Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

April 5, 2006


Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

**To: Supreme Court's Advisory Committee
on the Rules of Appellate Procedure**

Dear Committee Member:

This letter is to remind you of the next meeting of the Supreme Court's Advisory Committee on the Rules of Appellate Procedure, which will be Thursday, April 13, 2006 at 12:00 p.m. at the Administrative Office of the Courts. Enclosed you will find a copy the minutes from the March meeting. The agenda for next weeks meeting will include continued discussion of the rule proposal from the State v. Manning subcommittee, Rule 12 discussion on checking out the record, and a proposal related to the Child Welfare Rules. If you have any other agenda items, please let me know or bring them to the meeting. Please let me know if you have any questions or if you will be unable to attend the meeting.

Sincerely,



Brent Johnson
General Counsel

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